



General Assembly

February Session, 2020

Raised Bill No. 339

LCO No. 1825



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING THE INSURANCE DEPARTMENT'S
RECOMMENDATIONS REGARDING CAPTIVE INSURANCE
COMPANIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-91aa of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2020*):

3 As used in sections 38a-91aa to [38a-91tt] 38a-91uu, inclusive, [and]
4 as amended by this act, sections 38a-91ww and 38a-91xx and section 2
5 of this act:

6 (1) "Affiliated company" means any company in the same corporate
7 system as a parent, an industrial insured or a member organization by
8 virtue of common ownership, control, operation or management.

9 (2) "Agency captive insurance company" means a captive insurance
10 company that:

11 (A) Is owned or directly or indirectly controlled by one or more
12 insurance agents or insurance producers licensed in accordance with

13 sections 38a-702a to 38a-702r, inclusive;

14 (B) Only insures against risks covered by insurance policies sold,
15 solicited or negotiated through the insurance agents or insurance
16 producers that own or control such captive insurance company; and

17 (C) Does not insure against risks covered by any health insurance
18 policy or plan.

19 (3) "Alien captive insurance company" means any insurance
20 company formed to write insurance business for its parent and affiliated
21 companies and licensed pursuant to the laws of an alien jurisdiction that
22 imposes statutory or regulatory standards on companies transacting the
23 business of insurance in such jurisdiction that the commissioner deems
24 to be acceptable.

25 (4) "Association" means any legal association of individuals,
26 corporations, limited liability companies, partnerships, associations or
27 other entities [that has been in continuous existence for at least one
28 year,] where the association itself or some or all of the member
29 organizations:

30 (A) Directly or indirectly own, control or hold with power to vote all
31 of the outstanding voting securities or other voting interests of an
32 association captive insurance company incorporated as a stock insurer;

33 (B) Have complete voting control over an association captive
34 insurance company incorporated as a mutual corporation or formed as
35 a limited liability company; or

36 (C) Constitute all of the subscribers of an association captive
37 insurance company formed as a reciprocal insurer.

38 (5) "Association captive insurance company" means any company
39 that insures risks of the member organizations of an association, and
40 includes a company that also insures risks of such member
41 organizations' affiliated companies or of the association.

42 (6) "Branch business" means any insurance business transacted in this
43 state by a branch captive insurance company.

44 (7) "Branch captive insurance company" means any alien captive
45 insurance company or foreign captive insurance company licensed by
46 the commissioner to transact the business of insurance in this state
47 through a business unit with a principal place of business in this state.

48 (8) "Branch operations" means any business operations in this state of
49 a branch captive insurance company.

50 (9) "Captive insurance company" means any (A) pure captive
51 insurance company, agency captive insurance company, association
52 captive insurance company, industrial insured captive insurance
53 company, risk retention group, sponsored captive insurance company
54 or special purpose financial captive insurance company that is
55 domiciled in this state and formed or licensed under the provisions of
56 sections 38a-91aa to 38a-91tt, inclusive, as amended by this act, or (B)
57 branch captive insurance company.

58 (10) "Ceding insurer" means an insurance company, approved by the
59 commissioner and licensed or otherwise authorized to transact the
60 business of insurance or reinsurance in its state or country of domicile,
61 that cedes risk to a special purpose financial captive insurance company
62 pursuant to a reinsurance contract.

63 (11) "Commissioner" means the Insurance Commissioner.

64 (12) "Controlled unaffiliated business" means any person:

65 (A) Who, (i) in the case of a pure captive insurance company, is not
66 in the corporate system of a parent and the parent's affiliated companies,
67 or (ii) in the case of an industrial insured captive insurance company, is
68 not in the corporate system of an industrial insured and the industrial
69 insured's affiliated companies;

70 (B) Who, (i) in the case of a pure captive insurance company, has an
71 existing contractual relationship with a parent or one of the parent's

72 affiliated companies, or (ii) in the case of an industrial insured captive
73 insurance company, has an existing contractual relationship with an
74 industrial insured or one of the industrial insured's affiliated companies;
75 and

76 (C) Whose risks are managed by a pure captive insurance company
77 or an industrial insured captive insurance company, as applicable, in
78 accordance with section 38a-91qq.

79 (13) "Excess workers' compensation insurance" means, in the case of
80 an employer that has insured or self-insured its workers' compensation
81 risks in accordance with applicable state or federal law, insurance in
82 excess of a specified per-incident or aggregate limit established by the
83 commissioner.

84 (14) "Foreign captive insurance company" means any insurance
85 company formed to write insurance business for its parent and affiliated
86 companies and licensed pursuant to the laws of a foreign jurisdiction
87 that imposes statutory or regulatory standards on companies
88 transacting the business of insurance in such jurisdiction that the
89 commissioner deems to be acceptable.

90 [(14)] (15) "Incorporated protected cell" means a protected cell that is
91 established as a corporation or a limited liability company, separate
92 from the sponsored captive insurance company, with which [it] such
93 sponsored captive insurance company has entered into a participant
94 contract.

95 [(15)] (16) "Industrial insured" means an insured:

96 (A) Who procures the insurance of any risk or risks by use of the
97 services of a full-time employee acting as an insurance manager or
98 buyer;

99 (B) Whose aggregate annual premiums for insurance on all risks total
100 at least twenty-five thousand dollars; and

101 (C) Who has at least twenty-five full-time employees.

102 [(16)] (17) "Industrial insured captive insurance company" means any
103 company that insures risks of the industrial insureds that comprise an
104 industrial insured group, and includes a company that also insures risks
105 of such industrial insureds' affiliated companies.

106 [(17)] (18) "Industrial insured group" means any group of industrial
107 insureds that collectively:

108 (A) Directly or indirectly own, control or hold with power to vote all
109 of the outstanding voting securities or other voting interests of an
110 industrial insured captive insurance company incorporated as a stock
111 insurer;

112 (B) Have complete voting control over an industrial insured captive
113 insurance company incorporated as a mutual corporation or formed as
114 a limited liability company; or

115 (C) Constitute all of the subscribers of an industrial insured captive
116 insurance company formed as a reciprocal insurer.

117 [(18)] (19) "Insurance securitization" or "securitization" means a
118 transaction or a group of related transactions, which may include capital
119 market offerings, that are effected through related risk transfer
120 instruments and facilitating administrative agreements, in which all or
121 part of the result of such transaction is used to fund a special purpose
122 financial captive insurance company's obligations under a reinsurance
123 contract with a ceding insurer and by which:

124 (A) A special purpose financial captive insurance company directly
125 or indirectly obtains proceeds through the issuance of securities by such
126 company or any other person; or

127 (B) A person provides, for the benefit of a special purpose financial
128 captive insurance company, one or more letters of credit or other assets
129 that the commissioner has authorized such company to treat as
130 admitted assets for purposes of its annual report. "Insurance
131 securitization" or "securitization" does not include the issuance of a

132 letter of credit for the benefit of the commissioner to satisfy all or part of
133 a special purpose financial captive insurance company's capital and
134 surplus requirements under section 38a-91dd, as amended by this act.

135 [(19)] (20) "Member organization" means any individual, corporation,
136 limited liability company, partnership, association or other entity that
137 belongs to an association.

138 [(20)] (21) "Mutual corporation" means a corporation organized
139 without stockholders and includes a nonprofit corporation with
140 members.

141 [(21)] (22) "Parent" means any individual, corporation, limited
142 liability company, partnership or other entity that directly or indirectly
143 owns, controls or holds with power to vote more than fifty per cent of
144 the outstanding voting:

145 (A) Securities of a pure captive insurance company organized as a
146 stock insurer; or

147 (B) Membership interests of a pure captive insurance company
148 organized as a nonprofit corporation or as a limited liability company.

149 [(22)] (23) "Participant" means any association, corporation, limited
150 liability company, partnership, trust or other entity, and any affiliated
151 company thereof, that is insured by a sponsored captive insurance
152 company pursuant to a participant contract.

153 [(23)] (24) "Participant contract" means a contract entered into by a
154 sponsored captive insurance company and a participant by which the
155 sponsored captive insurance company insures the risks of the
156 participant and limits the losses of each such participant to its pro rata
157 share of the assets of one or more protected cells identified in such
158 participant contract.

159 [(24)] (25) "Protected cell" means a separate account established by a
160 sponsored captive insurance company, in which assets are maintained
161 for one or more participants in accordance with the terms of one or more

162 participant contracts to fund the liability of the sponsored captive
163 insurance company assumed on behalf of such participants as set forth
164 in such participant contracts.

165 [(25)] (26) "Pure captive insurance company" means any company
166 that insures risks of its parent and affiliated companies or controlled
167 unaffiliated business.

168 [(26)] (27) "Reinsurance contract" means a contract entered into by a
169 special purpose financial captive insurance company and a ceding
170 insurer by which the special purpose financial captive insurance
171 company agrees to provide reinsurance to the ceding insurer for risks
172 associated with the ceding insurer's insurance or reinsurance business.

173 [(27)] (28) "Risk retention group" means a captive insurance company
174 organized under the laws of this state pursuant to the federal Liability
175 Risk Retention Act of 1986, 15 USC 3901 et seq., as amended from time
176 to time, as a stock insurer or mutual corporation, a reciprocal or other
177 limited liability entity.

178 [(28)] (29) "Security" has the same meaning as provided in section
179 36b-3 and includes any form of debt obligation, equity, surplus
180 certificate, surplus note, funding agreement, derivative or other
181 financial instrument that the commissioner designates as a security for
182 purposes of sections 38a-91aa to 38a-91tt, inclusive, as amended by this
183 act.

184 [(29)] (30) "Special purpose financial captive insurance company"
185 means a company that is licensed by the commissioner in accordance
186 with section 38a-91bb, as amended by this act.

187 [(30)] (31) "Special purpose financial captive insurance company
188 security" means a security issued by (A) a special purpose financial
189 captive insurance company, or (B) a third party, the proceeds of which
190 are obtained directly or indirectly by a special purpose financial captive
191 insurance company.

192 ~~[(31)]~~ ~~(32)~~ "Sponsor" means any association, corporation, limited
193 liability company, partnership, trust or other entity that is approved by
194 the commissioner to organize and operate a sponsored captive
195 insurance company and to provide all or part of the required
196 unimpaired paid-in capital and surplus.

197 ~~[(32)]~~ ~~(33)~~ "Sponsored captive insurance company" means a captive
198 insurance company:

199 (A) In which the minimum required unimpaired paid-in capital and
200 surplus are provided by one or more sponsors;

201 (B) That insures risks of its participants only through separate
202 participant contracts; and

203 (C) That funds its liability to each participant through one or more
204 protected cells and segregates the assets of each protected cell from the
205 assets of other protected cells and from the assets of the sponsored
206 captive insurance company's general account.

207 ~~[(33)]~~ ~~(34)~~ "Surplus note" means an unsecured subordinated debt
208 obligation possessing characteristics consistent with the National
209 Association of Insurance Commissioners Statement of Statutory
210 Accounting Principles No. 41, as amended from time to time, and as
211 modified or supplemented by the commissioner.

212 Sec. 2. (NEW) (*Effective July 1, 2020*) (a) The Commissioner of Revenue
213 Services shall waive any and all penalties that would otherwise be due
214 under section 38a-277 of the general statutes for any taxable period
215 beginning on or after July 1, 2017, and ending prior to July 1, 2020, if the
216 insured:

217 (1) Establishes a branch captive insurance company in this state, or
218 transfers the domicile of its alien captive insurance company or foreign
219 captive insurance company to this state in accordance with the
220 provisions of section 38a-58a of the general statutes, not later than July
221 1, 2021; and

222 (2) Pays all taxes and interest due and outstanding under section 38a-
223 277 of the general statutes for all taxable periods ending on or after July
224 1, 2017, but before July 1, 2020, not later than forty-five days after such
225 insured satisfies the provisions of subdivision (1) of this subsection.

226 (b) Any insured that satisfies the provisions of subsection (a) of this
227 section shall not be liable for any taxes, interest and penalties that would
228 otherwise be due under section 38a-277 of the general statutes for any
229 taxable period ending prior to July 1, 2017.

230 Sec. 3. Section 38a-91bb of the general statutes is repealed and the
231 following is substituted in lieu thereof (*Effective July 1, 2020*):

232 (a) Any captive insurance company, when permitted by its articles of
233 association, charter or other organizational document, may apply to the
234 [Insurance Commissioner] commissioner for a license to do the business
235 of insurance against any kind of loss, damage or liability properly a
236 subject of insurance, if such insurance is not prohibited by law or [is not]
237 disapproved by the commissioner as being contrary to public policy,
238 including life insurance, annuities, health insurance, as defined in
239 section 38a-469, and commercial risk insurance, as defined in section
240 38a-663, provided:

241 (1) No pure captive insurance company may insure any risks other
242 than those of its parent and affiliated companies or controlled
243 unaffiliated business;

244 (2) No association captive insurance company may insure any risks
245 other than those of its association, the member organizations of its
246 association, and the member organizations' affiliated companies;

247 (3) No industrial insured captive insurance company may insure any
248 risks other than those of (A) the industrial insureds that comprise the
249 industrial insured group, (B) the industrial insureds' affiliated
250 companies, or (C) the industrial insureds' controlled unaffiliated
251 businesses;

252 (4) No risk retention group may insure any risks other than those of
253 its members and owners;

254 (5) No captive insurance company may provide personal risk
255 insurance, as defined in section 38a-663, for private passenger motor
256 vehicle or homeowners insurance coverage or any component thereof;

257 (6) No captive insurance company may accept or cede reinsurance
258 except as provided in section 38a-91kk;

259 (7) Any captive insurance company may provide excess workers'
260 compensation insurance to its parent and affiliated companies, unless
261 prohibited by the laws of the state having jurisdiction over the
262 transaction or by federal law. Any captive insurance company may
263 reinsure a workers' compensation qualified self-insured plan of its
264 parent and affiliated companies, unless prohibited by federal law;

265 (8) Any captive insurance company that provides life insurance,
266 annuities or health insurance shall comply with all applicable state and
267 federal laws.

268 (b) No captive insurance company shall do any insurance business in
269 this state unless:

270 (1) [It] The captive insurance company first obtains from the
271 [Insurance Commissioner] commissioner (A) a license authorizing [it]
272 the captive insurance company to do insurance business in this state, or
273 (B) a conditional certificate of authority under subsection (f) of this
274 section;

275 [(2) Its board of directors or committee of managers or, in the case of
276 a reciprocal insurer, its subscribers' advisory committee holds at least
277 one meeting each year in this state;]

278 [(3) It] (2) The captive insurance company maintains its principal
279 place of business in this state; and

280 [(4) It] (3) The captive insurance company appoints a registered agent

281 to accept service of process and to otherwise act on its behalf in this state.
282 Whenever such registered agent cannot with reasonable diligence be
283 found at the registered office of the captive insurance company, the
284 [Insurance Commissioner] commissioner shall be an agent of [such] the
285 captive insurance company upon whom any process, notice or demand
286 may be served.

287 (c) (1) To be considered for a license, a captive insurance company
288 shall:

289 (A) File with the commissioner a certified copy of its organizational
290 documents, a statement under oath of its president and secretary
291 showing its financial condition, and any other statements or documents
292 required by the commissioner; and

293 (B) Submit to the commissioner for approval a description of the
294 coverages, deductibles, coverage limits and rates and such additional
295 information as the commissioner may require. In the event of any
296 subsequent material change in any item in such description, the captive
297 insurance company shall submit to the commissioner for approval an
298 appropriate revision and shall not offer any additional kinds of
299 insurance until a revision of such description is approved by the
300 commissioner. The captive insurance company shall inform the
301 commissioner of any material change in rates not later than thirty days
302 after the adoption of such change.

303 (2) Each applicant captive insurance company shall also file with the
304 commissioner evidence of the following:

305 (A) The amount and liquidity of the company's assets relative to the
306 risks to be assumed;

307 (B) The adequacy of the expertise, experience and character of the
308 persons who will manage the company;

309 (C) The overall soundness of the company's plan of operation;

310 (D) The adequacy of the loss prevention programs of the company's

311 insureds; and

312 (E) Such other factors deemed relevant by the commissioner in
313 ascertaining whether the proposed captive insurance company will be
314 able to meet its policy obligations.

315 (3) Each applicant sponsored captive insurance company shall also
316 file with the commissioner:

317 (A) Materials demonstrating how the applicant will account for the
318 loss and expense experience of each protected cell at a level of detail
319 deemed sufficient by the commissioner, and how [it] such applicant will
320 report such experience to the commissioner;

321 (B) A statement acknowledging that all financial records of the
322 sponsored captive insurance company, including records pertaining to
323 any protected cells, shall be made available for examination or
324 inspection or by the commissioner or the commissioner's designee;

325 (C) All contracts or sample contracts between the sponsored captive
326 insurance company and any participants; and

327 (D) Evidence that expenses shall be allocated to each protected cell in
328 a fair and equitable manner.

329 (4) Each applicant special purpose financial captive insurance
330 company shall also:

331 (A) Include with its plan of operation:

332 (i) A complete description of all significant transactions, including
333 reinsurance, reinsurance security arrangements, securitizations, related
334 transactions or arrangements, and to the extent not included in the
335 transactions listed in this clause, a complete description of all parties
336 other than the special purpose financial captive insurance company and
337 the ceding insurer that will be involved in the issuance of special
338 purpose financial captive insurance company securities and a
339 description of any pledge, hypothecation or grant of a security interest

340 in any of the special purpose financial captive insurance company's
341 assets and in any stock or limited liability company interest in the
342 special purpose financial captive insurance company;

343 (ii) The source and form of the special purpose financial captive
344 insurance company's capital and surplus;

345 (iii) The proposed investment policy of the special purpose financial
346 captive insurance company;

347 (iv) A description of the underwriting, reporting and claims payment
348 methods by which losses covered by the reinsurance contract will be
349 reported, accounted for and settled;

350 (v) Pro forma balance sheets and income statements illustrating one
351 or more adverse case scenarios, as determined under criteria required
352 by the commissioner, for the performance of the special purpose
353 financial captive insurance company under all reinsurance contracts;
354 and

355 (vi) The proposed rate and method for discounting reserves, if the
356 special purpose financial captive insurance company is requesting
357 authority to discount its reserves;

358 (B) Submit an affidavit of its president, a vice president, its treasurer
359 or its chief financial officer that includes the following statements, that
360 to the best of such person's knowledge and belief after reasonable
361 inquiry:

362 (i) The proposed organization and operation of the special purpose
363 financial captive insurance company comply with all applicable
364 provisions of this chapter;

365 (ii) The special purpose financial captive insurance company's
366 investment policy reflects and takes into account the liquidity of assets
367 and the reasonable preservation, administration and management of
368 such assets with respect to the risks associated with the reinsurance
369 contract and the insurance securitization transaction. With respect to a

370 special purpose financial captive insurance company, "management"
371 means the board of directors, managing board or other individual or
372 individuals vested with overall responsibility for the management of the
373 affairs of such company, including, but not limited to, officers or other
374 agents elected or appointed to act on behalf of such company; and

375 (iii) The reinsurance contract and any arrangement for securing the
376 special purpose financial captive insurance company's obligations
377 under such reinsurance contract, including, but not limited to, any
378 agreements or other documentation to implement such arrangement,
379 comply with the provisions of this chapter; and

380 (C) Include with its application:

381 (i) Copies of all agreements and documentation described in
382 subparagraph (A) of this subdivision unless otherwise approved by the
383 commissioner, and any other statements or documents required by the
384 commissioner to evaluate the special purpose financial captive
385 insurance company's application for licensure; and

386 (ii) An opinion of qualified legal counsel, in a form acceptable to the
387 commissioner, that the offer and sale of any special purpose financial
388 captive insurance company securities complies with all applicable
389 registration requirements or applicable exemptions from or exceptions
390 to such requirements of the federal securities laws and that the offer and
391 sale of securities by the special purpose financial captive insurance
392 company itself comply with all registration requirements or applicable
393 exemptions from or exceptions to such requirements of the securities
394 laws of this state. Such opinion shall not be required as part of the
395 application if the special purpose financial captive insurance company
396 includes a specific statement in its plan of operation that such opinions
397 will be provided to the commissioner in advance of the offer or sale of
398 any special purpose financial captive insurance company securities.

399 (5) A sponsored captive insurance company may apply to be licensed
400 as a special purpose financial captive insurance company. Such
401 company shall be subject to the provisions of sections 38a-91aa to 38a-

402 91tt, inclusive, as amended by this act, applicable to a sponsored captive
403 insurance company and to a special purpose financial captive insurance
404 company. In the event of conflict between such provisions applicable to
405 a sponsored captive insurance company and to a special purpose
406 financial captive insurance company, the provisions applicable to a
407 special purpose financial captive insurance company shall control.

408 (6) Information submitted pursuant to this subsection shall be and
409 shall remain confidential and shall not be made public by the
410 commissioner or an employee or agent of the commissioner without the
411 written consent of the company, except that:

412 (A) Such information may be discoverable by a party in a civil action
413 or contested case to which the captive insurance company that
414 submitted such information is a party upon a showing by the party
415 seeking to discover such information that:

416 (i) The information sought is relevant to and necessary for the
417 furtherance of such action or case;

418 (ii) The information sought is unavailable from other nonconfidential
419 sources; and

420 (iii) A subpoena issued by a judicial or administrative officer of
421 competent jurisdiction has been submitted to the commissioner,
422 provided such submission requirement shall not apply to a risk
423 retention group; and

424 (B) The commissioner may, in the commissioner's discretion, disclose
425 such information to a public official having jurisdiction over the
426 regulation of insurance in another state, provided:

427 (i) Such public official agrees, in writing, to maintain the
428 confidentiality of such information; and

429 (ii) The laws of the state in which such public official serves require
430 such information to be and [to] remain confidential.

431 (d) (1) Each captive insurance company shall pay to the commissioner
432 a nonrefundable fee of eight hundred dollars for examining,
433 investigating and processing its application for a license. The
434 commissioner may retain legal, financial and examination services from
435 outside the department for the licensing and financial oversight of a
436 captive insurance company, the reasonable cost of which may be
437 charged against such company. The provisions of subdivisions (2) to (5),
438 inclusive, of subsection (k) of section 38a-14 shall apply to this
439 subdivision.

440 (2) Each captive insurance company shall pay a license fee for the first
441 year of licensure and a renewal fee for each year thereafter as set forth
442 in section 38a-11.

443 (e) (1) If the commissioner finds that the documents and statements
444 that a captive insurance company, other than a special purpose financial
445 captive insurance company, has filed comply with the provisions of
446 sections 38a-91aa to 38a-91tt, inclusive, as amended by this act, the
447 commissioner may grant a license authorizing the company to do
448 insurance business in this state until April first thereafter. The captive
449 insurance company may apply to renew such license on such forms as
450 the commissioner prescribes.

451 (2) (A) The commissioner may grant a license authorizing a special
452 purpose financial captive insurance company to do reinsurance
453 business in this state until April first thereafter upon the commissioner's
454 finding that (i) the proposed plan of operation provides for a reasonable
455 and expected successful operation, (ii) the terms of the reinsurance
456 contract and related transactions comply with sections 38a-91aa to 38a-
457 91tt, inclusive, as amended by this act, (iii) the proposed plan of
458 operation is not hazardous to any ceding insurer, and (iv) the insurance
459 regulator of the state of domicile of each ceding insurer has notified the
460 commissioner in writing or has otherwise provided assurance
461 satisfactory to the commissioner that such regulator has approved or
462 has not disapproved the transaction, provided the commissioner shall
463 not be precluded from issuing a license to a special purpose financial

464 captive insurance company if such regulator has not responded with
465 respect to all or any part of the transaction.

466 (B) In conjunction with granting such license, the commissioner may
467 issue an order to the special purpose financial captive insurance
468 company of any additional provisions, terms or conditions regarding
469 the organization, licensing or operation of such company that are not
470 inconsistent with the provisions of this chapter and are deemed
471 appropriate by the commissioner.

472 (3) The commissioner shall not grant a license to a branch captive
473 insurance company unless the alien captive insurance company or
474 foreign captive insurance company grants the commissioner authority
475 to examine the alien captive insurance company or foreign captive
476 insurance company in the jurisdiction in which the alien captive
477 insurance company or foreign captive insurance company is formed,
478 operates or maintains books and records.

479 (f) (1) The commissioner may, in the commissioner's sole discretion,
480 grant to a captive insurance company a conditional certificate of
481 authority to do insurance business in this state until the commissioner
482 completes examining, investigating and processing the captive
483 insurance company's application for a license if the captive insurance
484 company submits to the commissioner:

485 (A) Evidence that the captive insurance company possesses capital
486 and surplus that satisfies the requirements under section 38a-91dd, as
487 amended by this act;

488 (B) Such application and all other materials necessary for the
489 commissioner to grant a license to the captive insurance company
490 pursuant to this section; and

491 (C) A statement of compliance by all persons who hold an ownership
492 interest in the captive insurance company stating that, to the best of their
493 knowledge and belief, such application and the materials described in
494 subparagraph (B) of this subdivision satisfy:

495 (i) All provisions of sections 38a-91aa to 38a-91tt, inclusive, as
496 amended by this act, and 38a-91ww to 38a-91xx, inclusive, that the
497 captive insurance company must satisfy in order for the commissioner
498 to grant a license to the captive insurance company pursuant to this
499 section; and

500 (ii) Any other requirements established by the commissioner that the
501 captive insurance company must satisfy in order for the commissioner
502 to grant to the captive insurance company a conditional certificate of
503 authority pursuant to this section.

504 (2) The commissioner may, in the commissioner's sole discretion,
505 summarily revoke a conditional certificate of authority granted to a
506 captive insurance company pursuant to subdivision (1) of this
507 subsection if the commissioner:

508 (A) Is unable to verify, within the six-month period beginning on the
509 date that the commissioner granted such conditional certificate of
510 authority to the captive insurance company, that the captive insurance
511 company possesses capital and surplus that satisfies the requirements
512 of section 38a-91dd, as amended by this act; or

513 (B) Determines that the application and all other materials that the
514 captive insurance company submitted to the commissioner to receive a
515 license pursuant to this section:

516 (i) Does not satisfy all provisions of sections 38a-91aa to 38a-91tt,
517 inclusive, as amended by this act, and 38a-91ww to 38a-91xx, inclusive,
518 that the captive insurance company must satisfy in order for the
519 commissioner to grant to such captive insurance company a license
520 pursuant to this section; or

521 (ii) Any other requirements established by the commissioner that the
522 captive insurance company must satisfy in order for the commissioner
523 to grant to the captive insurance company a conditional certificate of
524 authority pursuant to this subsection.

525 (3) Each captive insurance company that receives from the
526 commissioner a conditional certificate of authority to do insurance
527 business in this state under this subsection shall comply with, and be
528 subject to, all provisions of sections 38a-91aa to 38a-91tt, inclusive, as
529 amended by this act, and 38a-91ww to 38a-91xx, inclusive, that are
530 applicable to the captive insurance company.

531 Sec. 4. Section 38a-91dd of the general statutes is repealed and the
532 following is substituted in lieu thereof (*Effective July 1, 2020*):

533 (a) (1) [The Insurance Commissioner] Except as provided in
534 subdivision (3) of this subsection, the commissioner shall not issue a
535 license to a captive insurance company or allow the company to retain
536 such license unless the company has and maintains unimpaired paid-in
537 capital and surplus of:

538 (A) In the case of a pure captive insurance company, not less than the
539 greater of:

540 (i) [two hundred fifty] Fifty thousand dollars; or

541 (ii) An amount that the commissioner determines is necessary for the
542 pure captive insurance company to meet such pure captive insurance
543 company's policy obligations;

544 (B) In the case of an association captive insurance company, not less
545 than five hundred thousand dollars;

546 (C) In the case of an industrial insured captive insurance company,
547 not less than five hundred thousand dollars;

548 (D) In the case of a risk retention group, not less than one million
549 dollars;

550 (E) In the case of a sponsored captive insurance company, not less
551 than two hundred twenty-five thousand dollars;

552 (F) In the case of a special purpose financial captive insurance

553 company, not less than two hundred fifty thousand dollars;

554 (G) In the case of a sponsored captive insurance company licensed as
555 a special purpose financial captive insurance company, not less than five
556 hundred thousand dollars; and

557 (H) In the case of an agency captive insurance company, not less than
558 five hundred thousand dollars.

559 (2) (A) The [Insurance Commissioner] commissioner shall not issue a
560 license to a branch captive insurance company or allow the branch
561 captive insurance company to retain such license unless the branch
562 captive insurance company has and maintains, as security for the
563 payment of liabilities attributable to the branch operations:

564 (i) Not less than the greater of:

565 (I) [two hundred fifty] Fifty thousand dollars; or

566 (II) An amount that the commissioner determines is necessary to
567 secure the payment of liabilities attributable to the branch captive
568 insurance company's operations; and

569 (ii) Reserves on such insurance policies or such reinsurance contracts
570 as may be issued or assumed by the branch captive insurance company
571 through its branch operations, including reserves for losses, allocated
572 loss adjustment expenses, incurred but not reported losses and
573 unearned premiums with regard to business written through the branch
574 operations. The commissioner may permit a branch captive insurance
575 company to credit against any such reserves any [security for loss
576 reserves that the branch captive insurance company posts with a ceding
577 insurer or is posted by a reinsurer with the branch captive insurance
578 company, so long as such security remains posted.] assets belonging to:

579 (I) The branch captive insurance company that are held in trust for,
580 or otherwise segregated or controlled by, a ceding insurer that secure
581 the branch captive insurance company's reinsurance obligations to the
582 ceding insurer; or

583 (II) A reinsurer that are held in trust for, or otherwise under the
584 control of, the branch captive insurance company and secure the
585 reinsurer's reinsurance obligations to the branch captive insurance
586 company.

587 (B) The amounts required under subparagraph (A) of this
588 subdivision may be held, with the prior approval of the commissioner,
589 in the form of:

590 (i) [a] A trust formed under a trust agreement and funded by assets
591 acceptable to the commissioner; [.]

592 (ii) [an] An irrevocable letter of credit issued or confirmed by a bank
593 approved by the commissioner; [.]

594 (iii) [with] With respect to the amount required under subparagraph
595 (A)(i) of this subdivision only, cash on deposit with the commissioner;
596 [.] or

597 (iv) [any] Any combination [thereof] of the forms described in
598 subparagraphs (B)(i) to (B)(iii), inclusive, of this subdivision.

599 (3) The commissioner may exempt a branch captive insurance
600 company from the provisions of subdivisions (1) and (2) of this
601 subsection if the branch captive insurance company is a foreign captive
602 insurance company and the commissioner, in the commissioner's
603 discretion, determines that the branch captive insurance company is
604 financially stable.

605 [(b) The commissioner may adopt regulations, in accordance with
606 chapter 54, to establish additional capital and surplus requirements
607 based upon the type, volume and nature of insurance business
608 transacted.]

609 [(c)] (b) Notwithstanding any other provision of this section, the
610 commissioner shall have the discretion to allow a captive insurance
611 company, other than a captive insurance company organized as a risk
612 retention group, to maintain less than the required unimpaired paid-in

613 capital and surplus set forth in subsection (a) of this section. The
614 commissioner shall consider the type, volume and nature of the
615 insurance or reinsurance business transacted by such a captive
616 insurance company in establishing the amount of unimpaired paid-in
617 capital and surplus the company is required to maintain.

618 [(d)] (c) Except as specified in subdivision (2) of subsection (a) of this
619 section, capital and surplus may be in the form of cash or an irrevocable
620 letter of credit issued by a bank approved by the commissioner.

621 (d) The commissioner may adopt regulations, in accordance with
622 chapter 54, to establish additional capital and surplus requirements
623 based upon the type, volume and nature of insurance business
624 transacted.

625 Sec. 5. Subsection (h) of section 38a-91ff of the general statutes is
626 repealed and the following is substituted in lieu thereof (*Effective July 1,*
627 *2020*):

628 (h) In the case of a captive insurance company licensed as a branch
629 captive insurance company, the alien captive insurance company or
630 foreign captive insurance company shall petition the commissioner to
631 issue a certificate setting forth the commissioner's finding that, after
632 considering the character, reputation, financial responsibility, insurance
633 experience, and business qualifications of the officers and directors of
634 the alien captive insurance company or foreign captive insurance
635 company, the licensing and maintenance of the branch operations will
636 promote the general good of the state. The alien captive insurance
637 company or foreign captive insurance company may register to do
638 business in this state after the commissioner's certificate is issued.

639 Sec. 6. Subdivision (1) of subsection (b) of section 38a-91gg of the
640 general statutes is repealed and the following is substituted in lieu
641 thereof (*Effective July 1, 2020*):

642 (b) (1) (A) [Prior] Except as provided in subparagraph (B) of this
643 subdivision, prior to March first of each year and, in the case of pure

644 captive insurance companies and industrial insured captive insurance
645 companies, prior to March fifteenth of each year, each captive insurance
646 company [other than a branch captive insurance company] shall
647 [submit] file with [to] the [Insurance Commissioner] commissioner a
648 report of [its] the captive insurance company's financial condition
649 verified by oath of two [of its] executive officers of the captive insurance
650 company. The commissioner shall establish the form and content of the
651 annual report to be filed by special purpose captive insurance
652 companies.

653 (B) [In the case of branch captive insurance companies, prior to March
654 first of each year, each such company] Each branch captive insurance
655 company shall [submit to] file with the commissioner a copy of all
656 reports and statements required to be filed under the laws of the
657 jurisdiction in which the alien captive insurance company or foreign
658 captive insurance company is formed. Such reports and statements shall
659 be verified by oath of two [of its] executive officers of the branch captive
660 insurance company and filed with the commissioner on the same day
661 that such reports and statements must be filed in the domiciliary
662 jurisdiction of the alien captive insurance company or foreign captive
663 insurance company. If the commissioner is satisfied that the annual
664 report filed by the alien captive insurance company or foreign captive
665 insurance company in [its] the domiciliary jurisdiction of the alien
666 captive insurance company or foreign captive insurance company
667 provides adequate information concerning the financial condition of
668 [the alien captive insurance company] the branch captive insurance
669 company, the commissioner may waive the requirement for completion
670 of the [captive] annual [statement for business written in the alien
671 jurisdiction.] report required under subparagraph (A) of this
672 subdivision. If the commissioner is not satisfied with such reports and
673 statements, or if the branch captive insurance company is not required
674 to file such reports and statements in the domiciliary jurisdiction of the
675 alien captive insurance company or foreign captive insurance company,
676 the branch captive insurance company shall file a report, at a time and
677 in a form and manner prescribed by the commissioner, that provides the

678 commissioner with adequate information concerning the financial
679 condition of the branch captive insurance company.

680 Sec. 7. Subsection (a) of section 38a-91hh of the general statutes is
681 repealed and the following is substituted in lieu thereof (*Effective July 1,*
682 *2020*):

683 (a) (1) [At least once every three years, and additionally whenever]
684 Except as provided in subdivision (3) of this subsection, the [Insurance
685 Commissioner] commissioner or the commissioner's designee shall,
686 whenever the commissioner determines it to be prudent, [the
687 commissioner or the commissioner's designee shall visit each captive
688 insurance company and thoroughly] but not less frequently than once
689 every five years, inspect and examine [its] each captive insurance
690 company's affairs to ascertain [its] the captive insurance company's
691 financial condition, [its] the captive insurance company's ability to fulfill
692 its obligations and whether [it] the captive insurance company has
693 complied with the provisions of sections 38a-91aa to 38a-91tt, inclusive,
694 as amended by this act, and any other applicable provisions of this title.
695 [The commissioner may extend the three-year period to five years,
696 provided a captive insurance company is subject to a comprehensive
697 annual audit during such period by independent auditors approved by
698 the commissioner and of a scope satisfactory to the commissioner.]

699 (2) The examination of a branch captive insurance company pursuant
700 to this section shall be of branch business and branch operations only,
701 as long as the branch captive insurance company provides annually to
702 the commissioner a certificate of compliance or its equivalent, issued by
703 or filed with the licensing authority of the jurisdiction in which the
704 branch captive insurance company is formed, and demonstrates to the
705 commissioner's satisfaction that it is operating in sound financial
706 condition in accordance with all applicable laws and regulations of such
707 jurisdiction.

708 (3) The commissioner may waive the requirement that the
709 commissioner or the commissioner's designee inspect and examine a

710 captive insurance company's affairs pursuant to this subsection if the
711 captive insurance company is a pure captive insurance company.

712 Sec. 8. Subsection (a) of section 38a-91ii of the general statutes is
713 repealed and the following is substituted in lieu thereof (*Effective July 1,*
714 *2020*):

715 (a) (1) The commissioner may, at any time, for cause, suspend, revoke
716 or refuse to renew any license of a captive insurance company, or in lieu
717 of or in addition to suspension or revocation of such license, the
718 commissioner, after reasonable notice to and hearing of any holder of
719 such license, may impose a fine not to exceed ten thousand dollars. Such
720 hearings may be held by the commissioner or any person designated by
721 the commissioner. For purposes of this subsection, cause for such
722 administrative action shall include, but not be limited to, the following
723 reasons: (A) Insolvency or impairment of capital or surplus; (B) failure
724 to meet the requirements of section 38a-91dd, as amended by this act;
725 (C) refusal or failure to [submit] file an annual report, as required by
726 section 38a-91gg, as amended by this act, or any other report or
727 statement required by law or by lawful order of the commissioner; (D)
728 failure to comply with the provisions of its own charter, bylaws or other
729 organizational document; (E) failure to submit to or pay the cost of
730 examination or any legal obligation relative thereto; (F) use of methods
731 that, although not otherwise specifically prohibited by law, nevertheless
732 render its operation detrimental or its condition unsound with respect
733 to the public or to its policyholders; or (G) failure otherwise to comply
734 with the laws of this state.

735 (2) Any captive insurance company aggrieved by the action of the
736 commissioner in suspending, revoking or refusing to renew a license or
737 in imposing a fine may appeal therefrom, in accordance with the
738 provisions of section 4-183, except venue for such appeal shall be in the
739 judicial district of New Britain. Appeals under this section shall be
740 privileged in respect to the order of trial assignment.

741 Sec. 9. Subparagraph (A) of subdivision (2) of subsection (g) of section

742 38a-91ss of the general statutes is repealed and the following is
743 substituted in lieu thereof (*Effective July 1, 2020*):

744 (A) Proceeds from a special purpose financial captive insurance
745 company securitization or letters of credit or other assets described in
746 subdivision [(18)] (19) of section 38a-91aa, as amended by this act;

747 Sec. 10. Section 38a-91uu of the general statutes is repealed and the
748 following is substituted in lieu thereof (*Effective July 1, 2020*):

749 (a) For the purposes of this section, [unless the context otherwise
750 requires:

751 (1) "Dormant captive insurance company" means a pure captive
752 insurance company, a sponsored captive insurance company or an
753 industrial insured captive insurance company, each as defined in
754 section 38a-91aa, that has:

755 (A) Ceased transacting insurance business; and

756 (B) No liabilities associated with any insurance business that
757 occurred, or insurance policy that was issued, prior to, on or after the
758 filing of its application for a certificate of dormancy under subsection
759 (b) of this section; and

760 (2) "Insurance business" "insurance business" means the business of
761 insurance, as defined in section 38a-905.

762 (b) (1) [A dormant captive insurance company that is domiciled in
763 this state may apply to the Insurance Commissioner for] The
764 commissioner may issue to a pure captive insurance company,
765 sponsored captive insurance company or industrial insured captive
766 insurance company a certificate of dormancy if such company:

767 (A) Files with the commissioner, in a form and manner prescribed by
768 the commissioner, an application for such certificate;

769 (B) Has ceased transacting insurance business; and

770 (C) Has no liabilities associated with any insurance business that
 771 occurred, or insurance policy that was issued, prior to, on or after the
 772 date that such company files an application with the commissioner
 773 pursuant to subparagraph (A) of this subdivision.

774 (2) [The] Each certificate of dormancy issued by the commissioner
 775 pursuant to subdivision (1) of this subsection shall be subject to renewal
 776 once every two years [,] and shall be forfeited if the [dormant captive
 777 insurance company] pure captive insurance company, sponsored
 778 captive insurance company or industrial insured captive insurance
 779 company that receives such certificate commences transacting insurance
 780 business or fails to timely renew such certificate.

781 (c) [A dormant captive insurance company] Each pure captive
 782 insurance company, sponsored captive insurance company or industrial
 783 insured captive insurance company that [has been issued] receives or
 784 renews a certificate of dormancy under subsection (b) of this section
 785 shall:

786 (1) Possess and maintain unimpaired, paid-in capital and surplus of
 787 not less than twenty-five thousand dollars;

788 (2) Not later than March [15, 2018] fifteenth, annually, submit to the
 789 commissioner a report on the financial condition of such company,
 790 verified by oath of two executive officers of such company, in such form
 791 as the commissioner prescribes; and

792 (3) Pay the license renewal fee specified in section 38a-11 for a captive
 793 insurance company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2020	38a-91aa
Sec. 2	July 1, 2020	New section
Sec. 3	July 1, 2020	38a-91bb
Sec. 4	July 1, 2020	38a-91dd
Sec. 5	July 1, 2020	38a-91ff(h)

Sec. 6	<i>July 1, 2020</i>	38a-91gg(b)(1)
Sec. 7	<i>July 1, 2020</i>	38a-91hh(a)
Sec. 8	<i>July 1, 2020</i>	38a-91ii(a)
Sec. 9	<i>July 1, 2020</i>	38a-91ss(g)(2)(A)
Sec. 10	<i>July 1, 2020</i>	38a-91uu

Statement of Purpose:

To: (1) Amend certain captive insurance company definitions; (2) provide tax amnesty to an insured that establishes a branch captive insurance company in, or transfers domicile of its alien captive insurance company or foreign captive insurance company to, this state; (3) modify licensing requirements; (4) authorize the Insurance Commissioner to license foreign captive insurance companies, and issue unlicensed captive insurance companies a conditional certificate of authority; (5) reduce capitalization requirements for pure captive and branch captive insurance companies; (6) authorize the commissioner to exempt foreign branch captive insurance companies from minimum capitalization requirements; (7) authorize foreign captive insurance companies to register to do business in this state; and (8) authorize the commissioner to waive the requirement that (A) alien captive insurance companies and foreign captive insurance companies file an annual report concerning their financial condition; and (B) the commissioner periodically examine the financial condition of pure captive insurance companies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]